

THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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PAUL D. CEGLIA,

Plaintiff-Appellant,

v.

14-1752-cv

ERIC H. HOLDER, JR., as Attorney  
General of the United States, et al.,

Defendants-Appellees.

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**DEFENDANTS-APPELLEES' AFFIDAVIT IN REPLY TO PLAINTIFF-  
APPELLANT'S RESPONSE TO ORDER TO SHOW CAUSE**

MARY E. FLEMING, being duly sworn, deposes and says that:

1. I am an Assistant United States Attorney in the Western District of New York, and I am admitted to practice before the United States Court of Appeals for the Second Circuit. I represent the Defendants-Appellees, Eric H. Holder, Jr., Preetinder S. Bharara, Janis M. Echenberg and Christopher D. Frye in this action which arose in the United States District Court for the Western District of New York under WDNY Docket No. 13-cv-256 (the "Holder Action").

2. I submit this Affidavit in reply to Paul D. Ceglia's ("Ceglia") response to this Court's Order To Show Cause why this appeal should not be dismissed pursuant to the fugitive disentitlement doctrine.

3. Ceglia currently has three appeals pending in this Court, two civil cases, the instant one and *Ceglia v. Zuckerberg*, Docket No. 14-1365 (the “Zuckerberg Action”), as well as an interlocutory appeal in a criminal case, *United States v. Ceglia*, Docket No. 15-628 (the criminal appeal).

4. Each of these appeals emanates from an alleged contract between Ceglia and Mark Zuckerberg wherein Ceglia claims he is entitled to a sizeable interest in Facebook, Inc. The Zuckerberg Action began as a civil lawsuit filed by Ceglia in the Western District of New York to recover his alleged ownership interest in Facebook. The criminal case was initiated by the United States Attorney’s Office for the Southern District of New York against Ceglia for mail fraud and wire fraud relating to his claims of an ownership interest in Facebook, from which Ceglia has taken an interlocutory appeal. The second civil case, the Holder Action, was filed by Ceglia in the Western District of New York, seeking to enjoin the prosecution in the Southern District of New York. Ceglia has now filed appeals from the orders of the district court for the Western District of New York dismissing the Zuckerberg Action and denying the request for injunctive relief as asserted in the Holder Action.

5. Oral argument on the Holder Action and the Zuckerberg Action are scheduled to be heard in tandem on Thursday, April 16, 2015.

6. The criminal trial against Ceglia in the Southern District of New York is scheduled to begin on May 4, 2015.

7. On March 11, 2015, the United States filed a motion to dismiss the criminal appeal. Attached as Exhibit A is a copy of the motion to dismiss the criminal appeal.

8. The motion to dismiss the criminal appeal was filed shortly after Ceglia removed his electronic monitoring device, fled with his family, and became a fugitive.

9. The motion to dismiss addresses why the criminal appeal should be dismissed pursuant to the fugitive disentitlement doctrine at pages 6-10. For the reasons outlined in the motion to dismiss the criminal appeal, the Holder Action should also be dismissed. The claims asserted in the Holder Action are intricately and undisputedly related to the criminal case and Ceglia's interest in each case is precisely the same. To put it as succinctly as possible, the Holder Action would never have been filed had the criminal prosecution not been initiated in the Southern District of New York.

10. Accordingly, for the same reasons set forth in the motion to dismiss filed by the United States in the criminal appeal, this Court should dismiss the Holder Action.

*s. Mary E. Fleming*

MARY E. FLEMING

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Sworn to before me this  
30th day of March, 2015.

*s/Laura Rogers*

LAURA ROGERS

COMMISSIONER OF DEEDS

In And For The City Of Buffalo, NY

My Commission Expires Dec. 31, 2016.

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State of New York    )  
County of Erie        ) ss:  
City of Buffalo       )

The undersigned hereby certifies that she is an employee of the United States Attorney's Office for the Western District of New York and is a person of such age and discretion as to be competent to serve papers.

That pursuant to 2d Cir. Local Rule 25.1, on March 30, 2015, she electronically filed the attached **Defendants-Appellees' Affidavit in Reply to Plaintiff-Appellant's Response to Order to Show Cause** which had been found to be virus free using Trend Micro, with the Second Circuit Court of Appeals using its CM/ECF which would then electronically notify the parties listed below.

Joseph M. Alioto, Esq.

Gil D. Messina, Esq.

*s/Laura Rogers*  
LAURA ROGERS